

REMARKS

Applicant respectfully requests further examination and reconsideration in view of the amendments above and the comments set forth fully below. By the above amendments, claim 1 is amended. Accordingly, claims 1-12 and 33-41 are currently pending in this application.

Claim Amendments

Claim 1 is amended to include the subject matter of the previously considered dependent claim 41. As such, the amendment to claim 1 does not constitute new matter and does not raise new issues and should therefore be considered.

Within the Office Action, claim 41 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Although the subject matter of claim 41 is added to the independent claim 1 instead of the independent claim 35 to which claim 41 depends, the subject matter of the dependent claim 41 is allowable over U.S. Patent No. 4,249,740 to Cheney et al. (hereinafter “Cheney”) in view of U.S. Patent No. 6,817,613 to Hasek (hereinafter “Hasek”). Cheney and Hasek each fail to teach a game piece in the form of one-quarter of a pyramid including two flat vertical upstanding faces and two flat sloped sides. Accordingly, the amended independent claim 1, including the limitations of the objected to claim 41, is allowable over Cheney in view of Hasek.

Rejection under §§ 103

Within the Office Action, claims 1-4, 6, 33, 35-37, 39, and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cheney in view of Hasek. Also within the Office Action, claims 5 and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cheney in view of Hasek and further in view of U.S. Patent No. 4,046,381 to Comeaux (hereinafter “Comeaux”). The Applicant respectfully traverses these rejections.

Claim 1

As described above, the independent claim 1 is amended to include the subject matter of the dependent claim 41 directed to the limitation “one of the plurality of first game pieces comprises one-quarter of a pyramid including two flat vertical upstanding faces and two flat sloped sides.” Neither Cheney nor Hasek teach this limitation. Accordingly, the amended independent claim 1 is allowable over Cheney in view of Hasek. Since claims 2-6 and 33 are dependent upon claim 1, claim 2-6 and 33 are each also allowable as being dependent upon an allowable base claim.

Claim 35

The independent claim 35 was previously amended to include “a plurality of first game pieces designated by a first type each having two upstanding faces, each face having a full-height of the first game piece, wherein each one of the first game pieces is configured to come in face to face contact with at least one of the other first game pieces to form new game piece structures, further wherein when two or more first game pieces are in face to face contact the resulting new game piece structure has a dimension that is longer than a square on the grid.” (Emphasis added)

Cheney teaches game pieces that include base structures configured to match with base structures of other pieces. In this manner, the base structures of adjoining pieces come in contact with one another. However, the base structure of each piece only accounts for a small portion of the overall height of the game piece (Cheney, Figures 1-4). Specifically, Figure 3 of Cheney shows the head of each queen, indicated by a circle, within the perimeter of the base structure. Cheney does not teach game pieces with upstanding faces having a full-height of the game piece.

Further, Cheney teaches that each of the game pieces is sized so that when two or more game pieces come together in contact, all contacted game pieces occupy the same square. In other words, the dimensions of the game pieces are such that when multiple pieces come in contact, their combined geometry does not result in a dimension that is longer than the single square they occupy (Cheney, Figures 3 and 7). As such, Cheney does not teach that when two or more game pieces come in face to

face contact the resulting new game piece structure has a dimension that is longer than a square on the grid.

Within the Office Action, the Examiner fails to cite any portion of either Cheney or Hasek that teaches these amended limitations. For at least these reasons, the new independent claim 35 is allowable over Cheney, Hasek, and their combination. Since claims 36-41 are dependent upon claim 35, claims 36-41 are each also allowable as being dependent upon an allowable base claim.

Allowable Subject Matter

Within the Office Action, claims 7-12 and 34 are allowed.

Also, within the Office Action, claim 41 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. By the above amendments, the independent claim 1 is amended to included the subject matter of the objected to dependent claim 41.

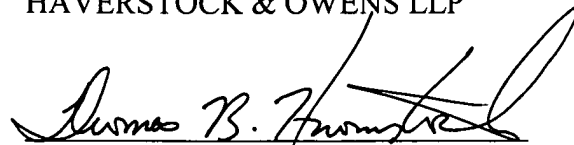
In view of the foregoing, the Applicant respectfully submits that all claims, namely claims 1-12 and 33-41, are in condition for allowance. Reconsideration of the rejections is requested. Allowance is earnestly solicited at the earliest possible date. The Examiner is encouraged to call the undersigned at (408) 530-9700, with questions or comments so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,

HAVERSTOCK & OWENS LLP

Dated: 9-29-08

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CERTIFICATE OF MAILING (37 CFR § 1.8(a))

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